



UNITED STATES
 CONSUMER PRODUCT SAFETY COMMISSION
 4330 EAST WEST HIGHWAY
 BETHESDA, MD 20814

BALLOT VOTE SHEET

DATE: May 28, 2010

TO: The Commission
 Todd A. Stevenson, Secretary

THROUGH: Cheryl A. Falvey, General Counsel *CAF*
 Maruta Budetti, Executive Director *mb*

FROM: Philip L. Chao, Assistant General Counsel *PLC*
 Jan S. Carlson, General Attorney *JSC*

SUBJECT: *Federal Register* Notice Extending Stay Regarding CPSIA Testing and Certification Requirements for Bicycles

JUN - 7 2010

Ballot Vote Due: _____

Last week, the Commission voted unanimously to issue a response to the Bicycle Product Suppliers Association's (BPSA) petition for an extension of the stay of enforcement of the CPSIA testing and certification requirements for bicycles and directed the Office of General Counsel (OGC) to prepare a corresponding *Federal Register* notice. Attached is a draft *Federal Register* document consistent with the response provided to BPSA.

Please indicate your vote on the following options.

- I. Approve the publication of the attached document in the *Federal Register* as drafted.

 (Signature)

 (Date)

- II. Approve the publication of the attached document in the *Federal Register* with changes. (Please specify.)

 (Signature)

 (Date)

III. Do not approve the publication of the attached document in the *Federal Register*.

(Signature)

(Date)

IV. Take other action. (Please specify.)

(Signature)

(Date)

Attachment: Draft *Federal Register* document titled, "Consumer Product Safety Act: Notice of Commission Action on the Stay of Enforcement of Testing and Certification Requirements with Regard to 16 CFR Part 1512."

[Billing code CPSC-5355-01-P]

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act: Notice of Commission Action on the Stay of Enforcement of Testing and Certification Requirements with Regard to 16 CFR Part 1512

AGENCY: Consumer Product Safety Commission.

ACTION: Limited extensions of stay of enforcement.

SUMMARY: The Consumer Product Safety Commission (CPSC or Commission) is extending its stay of enforcement of certain testing and certification provisions of section 14 of the Consumer Product Safety Act (CPSA) as amended by section 102 of the Consumer Safety Improvement Act of 2008 (CPSIA). The Commission is extending the stay for products under 16 CFR part 1512 (bicycles) until August 14, 2010, with two exceptions. First, the Commission is extending the stay related to 16 CFR 1512.16 (reflectors) until November 14, 2010. Second, bicycles with non-quill-type stems are excluded from certifying compliance to 16 CFR 1512.6(a) (handlebar stem insertion mark) until further notice.

DATES: As it pertains to products under 16 CFR part 1512, the stay of enforcement is extended until August 14, 2010, except for products under 16 CFR 1512.16, for which the

stay is extended until November 14, 2010, and except for bicycles with non-quill-type stems, which are excluded from the certification requirement regarding the handlebar stem insertion mark at 16 CFR 1512.6(a) until further notice.

FOR FURTHER INFORMATION CONTACT: John “Gib” Mullan, Assistant Executive Director for Compliance and Field Operations, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814; email jmullan@cpsc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 14 of the CPSA requires that every manufacturer of a product (and the private labeler, if the product bears a private label) that is subject to a consumer product safety rule, ban, standard, or regulation enforced by the Commission certify, based on testing, that its product complies with the applicable safety rule, ban, standard, or regulation. For nonchildren’s products, the certification must be based on a test of each product or a reasonable testing program. For children’s products, the certification must be based on testing conducted by a CPSC-accepted third party conformity assessment body (laboratory). The Commission announced the criteria and process for its acceptance of the accreditation of third party conformity assessment bodies to test children’s products under 16 CFR part 1512 in a notice of requirements that appeared in the Federal Register on September 2, 2009. 74 FR 45428.

On February 9, 2009, the Commission published a notice in the Federal Register staying enforcement of the testing and certification requirements for many products, including bicycles. 74 FR 6396. The Commission committed to the stay for one year, explaining that the stay was necessary to “give us the time needed to develop sound rules and requirements as well as implement outreach efforts to explain these [new] requirements of the CPSIA and their applicability.” 74 FR 6396, 6398. On December 28, 2009, the Commission published a notice in the Federal Register revising the terms of the stay. 74 FR 68588. In that notice, the Commission lifted the stay for some CPSC regulations and extended the stay for other CPSC regulations. Relevant for present purposes, the Commission stated that it “plans to keep the stay in effect for the bicycle regulations (16 CFR part 1512) as applicable to all bicycles, both non children’s (sic) and children’s, until May 17, 2010. With regard to bicycles, the Commission has determined that there is insufficient laboratory capacity for third-party testing of bicycles at this time.... Should the extension of this stay until May 17, 2010 prove insufficient, the bicycle manufacturers and laboratories must petition the Commission for additional relief no later than April 1, 2010.” 74 FR 68588, 68590.

On April 1, 2010, the Bicycle Product Suppliers Association (BPSA) petitioned the Commission for an extension of the stay of enforcement as it relates to 16 CFR part 1512, the CPSC safety regulations for bicycles. The BPSA contended that laboratory capacity was still inadequate. It also asserted that 16 CFR part 1512 is “out of date in many respects,” and urged the Commission to revise the regulation. Finally, BPSA maintained that the bicycle industry has a good record of compliance with part 1512 and so extending the stay would not

increase risk to public health or safety. The CPSC invited the BPSA to meet to discuss the petition, and such a meeting was held on May 3, 2010.

II. Limited Extensions of Stay of Enforcement

The Commission has decided to extend the stay of enforcement of the testing and certification requirements imposed by section 14 of the CPSA with regard to the safety regulations in 16 CFR part 1512 (bicycles) until August 14, 2010, with two exceptions noted immediately below. As of May 12, 2010, there are five CPSC-accepted conformity assessment bodies accredited to test to some or most of the standards contained in 16 CFR part 1512. This limited extension of the stay will provide time for the development of additional laboratory capacity for the testing of children's bicycles. Nevertheless, bicycle manufacturers must certify based on testing that their products, both nonchildren's and children's, manufactured after August 14, 2010, comply with 16 CFR part 1512.

There are two exceptions to this extension of the stay. Because there are currently no CPSC-accepted conformity assessment bodies accredited to test to the bicycle reflector requirements at 16 CFR 1512.16, the Commission is extending the stay as it relates to bicycle reflectors and 15 CFR 1512.16 until November 14, 2010. The Commission is allowing this additional three-month period for the development of CPSC-accepted laboratory capacity for bicycle reflector testing.

In addition, the Commission is aware that bicycles with non-quill-type stems may not be able to comply with the insertion mark requirement of 16 CFR 1512.6(a). Bicycles with non-quill-type stems are hereby excluded from the requirement to certify compliance with the handlebar stem insertion mark requirement at 16 CFR 1512.6(a).

Dated: _____

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.